

Remarks

The Office Action mailed October 4, 2005 has been carefully considered. After such consideration, independent Claims 1 and 9 have been amended. As such, Claims 1-7; and 9-15 remain in the case with none of the claims being allowed.

The Examiner rejected Claims 1-7 and 9-15 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over commonly owned U.S. Patent No. 6,698,251 and U.S. Patent No. 6,684,461. In response, Applicant has filed a terminal disclaimer to overcome the rejection based on U.S. Patent No. 6,698,251.

However, Applicant respectfully asks for reconsideration regarding U.S. Patent No. 6,684,461, which teaches a bedding handle having a stiff portion and contrasting cushioned edges. The present invention teaches a mattress tape with a base layer and patterned layer extending the entire lengthwise and widthwise direction to form a flexible web. Accordingly, U.S. Patent No. 6,684,461 does not appear to include the same subject matter.

The Examiner had rejected Claims 1 and 9 under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor has possession of the claimed invention. Specifically, the Examiner rejected the claims because the negative limitation, "inelastic," was not explicitly set forth in the specification. In response, Applicant has amended the claims to remove the negative limitation.

The Examiner also had rejected Claims 1 and 9 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,768,758 issued to Deignan *et al.* In addition, the Examiner had rejected Claims 1-5 and 7, under 35 U.S.C. 103 as being unpatentable over U.S. Patent No. 5,768,758 issued to Deignan *et al.*

Deignan *et al.* teaches a method and apparatus for attaching upholstery to a furniture frame using a tape having a cord incorporated therein. (Col. 2, lines 6-7) Deignan *et al.* teaches knitting a web having a technical front and back and having a channel formed between the technical layers for holding a cord formed by eliminating one or more warp knitting yarns. (Col. 4, lines 40-45) Claims 1 and 9 teach forming base layer and a patterned layer that are integrally formed, and not separated by a channel as in Deignan *et al.*

As the Examiner is aware, it is the burden of the Examiner to establish a prima facie case of obviousness when rejecting claims under 35 U.S.C. 103 (In re Reuter, 651 F. 2d. 751, 210

U.S.P.Q. 249 (CCPA 1981)). In this case, The Applicant respectfully submits that the Examiner has failed to establish a prima facie case of obviousness. Specifically, it would not be not be obvious to modify Deignan *et al.* to achieve the present invention because doing so would destroy the function of Deignan *et al.*'s web design. For example, integrally forming the web, as in the present invention, would leave no room for the cord that is a central part of Deignan *et al.*'s invention.

By this amendment the Applicant has placed the case in condition for immediate allowance and such action is respectfully requested. However, if any issue remains unresolved, Applicant's attorney would welcome the opportunity for a telephone interview to expedite allowance and issue.

Respectfully submitted,



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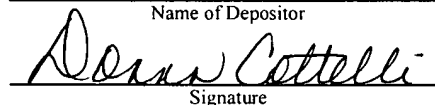
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